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DIVISION OF APPEALS
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Public Service Commission

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EXPRESS MAIL

January 13, 1994

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JAN 14 1994

FCC MAIL ROOM

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RE: In the Matter of Policies and Rules Concerning Toll Fraud,
CC Docket No. 93-292

Dear Mr. Caton:

On behalf of the Florida Public Service Commission, please find enclosed an original and five copies of the Commission's Reply Comments. An extra copy is also enclosed with a stamped, self-addressed envelope; please date stamp and return.

Please contact me should you have any questions concerning this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "W. Wyrrough, Jr.", is written over the typed name and title.

William E. Wyrrough, Jr.
Associate General Counsel

WEW/mrd
Enclosures
CC93-292.MRD

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

RECEIVED**JAN 14 1994**

In the Matter of
Policies and Rules
Concerning Toll Fraud

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FCC MAIL ROOM
CC Docket No. 93-292

**COMMENTS OF THE
FLORIDA PUBLIC SERVICE COMMISSION**

The Florida Public Service Commission (FPSC), through its undersigned attorney, hereby files comments in response to the Federal Communications Commission's (FCC) Notice of Proposed Rulemaking (NPRM) in CC Docket No. 93-292 regarding policies and rules concerning toll fraud. The NPRM seeks comment on proposals to: (1) achieve closer coordination between the industry, consumers, vendors, law enforcement agencies, Congress, and the Commission to aid in the detection and prevention of toll fraud; (2) improve consumer education initiatives by the Commission, consumer groups, and the telecommunications industry; (3) determine that tariff liability provisions that fail to recognize an obligation by the carrier to warn customers of toll fraud risks of using carrier services are unreasonable; (4) establish a federal policy assigning liability for toll fraud; (5) codify a requirement for written warnings for all telecommunications equipment

registered under Part 68; and (6) determine measures to prevent cellular and Line Information Database (LIDB) fraud.¹

The FPSC comments are limited to the FCC's request for comments regarding Florida's Petition concerning toll fraud liability from pay telephones. In this matter the FCC seeks comments on: (1) whether the Florida approach has been an effective, efficient way of dealing with payphone fraud; (2) whether carriers should be required to modify tariff language limiting carrier liability for payphone fraud and how this modification would affect carriers and payphone providers; (3) the general availability of blocking and screening services, whether they are priced reasonably, what percentage of payphone providers are using these services where they are available, and whether they are effective in reducing the risk of fraud; (4) whether there are other services available to payphone providers that reduce the risk of fraud, or whether payphone providers can prevent the fraud; and (5) whether a federal fraud policy based on the Florida model is necessary to apportion the costs of payphone fraud, or whether tariffs filed by carriers for blocking and screening services should be required to clearly articulate the responsibilities of the parties and apportion the costs of fraud incurred in the use of these services.

¹ Notice of Proposed Rulemaking, In the Matter of Policies and Rules Concerning Toll Fraud, CC Docket No. 93-292.

FLORIDA'S POSITION

The FPSC encourages the FCC to adopt its tentative conclusion that pay telephone providers that take reasonable steps to limit their exposure to toll fraud and are not customers should not be required to pay bills generated as a result of toll fraud perpetrated through their equipment. As indicated by our Petition, the FPSC adopted rules on February 3, 1993 which effectively released the pay telephone provider from liability for the charges resulting from certain types of intrastate toll fraud if the provider has purchased call screening for the line. We anticipate that this policy will create the necessary incentives for the local exchange carriers (LECs), interexchange carriers (IXCs) and pay telephone providers to cooperatively address toll fraud.

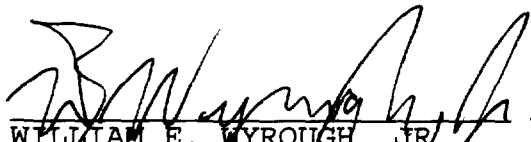
To date, we believe that the effect of our policy has been positive. Prior to the implementation of the revised rules, the FPSC had several cases pending before the Commission regarding fraudulent calls billed to pay telephones. Since implementation of these rules, there have been no complaints, problems or disputes brought before the Commission. We believe this directly correlates with the Commission's fraud policy since the rules clearly address each industry participant's responsibilities. As a result, privately-owned pay telephone providers have been able to avoid costly litigation.

The FPSC believes that removing tariff language which insulates the LECs or IXCs from liability will encourage the review of policies and procedures for handling calls originating or

terminating from pay telephones, and that this is consistent with the FCC's decision in the United Artists case. We also believe that it is important to establish a federal policy which specifically outlines the responsibilities of the parties, and that failure to enact such a policy will result in continued litigation that may potentially force many pay telephone providers out of business.

Finally, regarding the issue of the availability of blocking and screening functions, the FPSC requires all pay telephone providers to subscribe to blocking and screening services and international call blocking. The FPSC adopted this policy in 1988 in order to help curtail toll fraud from pay telephones.

Respectfully submitted,


WILLIAM E. WYROUGH, JR.
Associate General Counsel

FLORIDA PUBLIC SERVICE COMMISSION
101 East Gaines Street
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(904) 488-7464

Dated: January 13, 1994

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